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SUPERVISORS OF BOTETOURT COUNTY *v.* CAHOON et al.

Nov. 15, 1917.

[94 S. E. 340.]

1. Officers (§ 110*)—Public Officers—Duty Coupled with Power.—

If there is a duty coupled with a power given to a public officer, the power must be exercised, though conferred in permissive language.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 502.]

2. Evidence (§ 5 (2)*)—Common Knowledge—Increase in Price of Labor and Materials.—It is a matter of common knowledge that as a result of the war there has been a great increase in the price of labor and all materials that enter into construction of roads since estimates were made by the state highway commission of the cost of road work contemplated by Acts 1916, c. 112, shortly after its enactment.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 631.]

3. Mandamus (§ 103*)—Discretionary Acts of Supervisors—Statute.—Acts 1916, c. 112, authorizing and empowering the supervisors for Botetourt county to borrow \$90,000 for permanently improving such roads as may be designated in a named district, and issue bonds, etc., but giving no option to the supervisors to change the apportionment of funds or omit any one of the roads from the apportionment, discloses no duty resting upon the supervisors to exercise the power conferred, and the circuit court was without jurisdiction to set aside or annul their action, declining to issue bonds or to enter upon the improvements contemplated by the act on the ground that it appeared to the board that no one of the roads could be improved in the manner provided for the sum allowed for the purpose, and a writ of mandamus was improperly granted.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 516, 527.]

Error to Circuit Court, Botetourt County.

Mandamus proceedings by one Cahoon and others, citizens, against the Supervisors of Botetourt County. From an order and judgment of the circuit court, this writ of error was awarded. Judgment of the circuit court reversed.

Haden & Haden, of Fincastle, for plaintiff in error.

Wm. R. Allen, of Buchanan, for defendants in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.